United Nations S/2018/1172

Security Council

Distr.: General
31 December 2018

Original: English

Letter dated 27 December 2018 from the Chair of the Informal Working Group on International Tribunals addressed to the President of the Security Council

I have the honour to transmit herewith the report of the Informal Working Group on International Tribunals on the Working Group's activities in 2018.

I should be grateful if the present letter and the report were brought to the attention of the members of the Security Council and issued as a document of the Council.

(*Signed*) Gustavo **Meza-Cuadra**
Chair
Informal Working Group on International Tribunals

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Report of the Informal Working Group on International Tribunals for 2018

I. Introduction

1. The present report is submitted to inform the Security Council of the work of the Informal Working Group on International Tribunals in 2018.

II. Organizational matters

2. The Working Group was established on an informal basis in 2000 to consider matters relating to the United Nations and United Nations-assisted tribunals, in particular the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda and, in recent years, the International Residual Mechanism for Criminal Tribunals. The Working Group consists of the legal advisers of the permanent missions of the members of the Security Council and is assisted by the Office of the Legal Counsel of the Office of Legal Affairs and the Security Council Affairs Division of the Department of Political Affairs.

3. Until 2007, the Working Group's chairmanship followed the monthly rotation of the presidency of the Security Council and it met only on an ad hoc basis. At the end of 2007, given the intensive work relating to residual issues and the completion strategies of the Tribunals pursuant to resolutions 1503 (2003) and 1534 (2004), the Working Group decided to appoint a single Chair and began meeting regularly. Subsequently, the Working Group was chaired by Belgium (2008), Austria (2009 and 2010), Portugal (2011), Guatemala (2012 and 2013), Chile (2014 and 2015) and Uruguay (2016 and 2017). Peru has had the honour of chairing the Working Group in 2018.

4. In 2018, the Working Group held two formal meetings with the President and the Prosecutor of the Mechanism.

III. Briefings to the Security Council

5. Following previous practice, the Permanent Representative of Peru, in his capacity as Chair of the Working Group, briefed the Security Council on the activities of the Working Group and gave his personal reflections on 6 June (8278th meeting) and 11 December 2018 (8416th meeting).

IV. Exchange of views with the President and the Prosecutor of the Residual Mechanism

6. At its meeting on 4 June 2018, the Working Group held an exchange of views with the President and the Prosecutor of the Mechanism, in preparation for their briefings to the Security Council on the work and activities of the Mechanism on 6 June 2018.

7. At its meeting on 10 December 2018, the Working Group held an exchange of views with the President and the Prosecutor of the Mechanism, in preparation for their briefings to the Security Council on the work and activities of the Mechanism on 11 December 2018.

V. Review report on the progress of the work of the Residual Mechanism

8. On 8 March 2018, the Office of Internal Oversight Services (OIOS) issued a report pursuant to resolution 2256 (2015) on the evaluation of the methods and work of the Mechanism, covering the period from 1 January 2016 to 31 December 2017 (S/2018/206).

9. At its 8208th meeting, on 19 March 2018, the Security Council adopted a statement by the President (S/PRST/2018/6) which, inter alia, requested the Mechanism to present by 15 April 2018 its report on the progress of its work since the last review of the Mechanism in December 2015. By the same statement, the Council also requested the Working Group to carry out, by 15 May 2018, a thorough examination of the Mechanism's report, as well as the OIOS report on the evaluation of the methods and work of the Mechanism, and to present its views and any findings or recommendations for the Council's consideration in its review of the work of the Mechanism, including in completing its functions with efficiency and effective management.

10. By a letter dated 13 April 2018 addressed to the President of the Security Council (S/2018/347), the President of the Mechanism transmitted the review report pursuant to the statement by the President of 19 March 2018.

11. By its resolution 2422 (2018) of 27 June 2018, the Security Council, inter alia, noted the conclusion of its review of the progress of the work of the Mechanism.

VI. Appointments of the President and Prosecutor and Judges of the Mechanism

12. By a letter dated 22 June 2018 addressed to the President of the Security Council (S/2018/626), the Secretary-General, inter alia, conveyed his intention to reappoint 23 judges of the Mechanism for a term of two years from 1 July 2018 until 30 June 2020. By the same letter, the Secretary-General conveyed his intention to reappoint Judge Theodor Meron as President of the Mechanism for a term of office from 1 July 2018 until 18 January 2019 and to appoint Judge Carmel Agius as President with effect from 19 January 2019 until 30 June 2020, and nominated Serge Brammertz as Prosecutor of the Mechanism for a new two-year term, from 1 July 2018 to 30 June 2020.

13. By a letter dated 26 June 2018 addressed to the Secretary-General (S/2018/627), the President of the Security Council stated that members of the Council had taken note of the intentions and nomination as expressed in the letter of the Secretary-General.

14. By its resolution 2422 (2018) of 27 June 2018, the Security Council decided to appoint Mr. Brammertz as Prosecutor of the Mechanism with effect from 1 July 2018 until 30 June 2020.

15. By a letter dated 29 June 2018 addressed to the President of the Security Council (S/2018/652), the Secretary-General referred to the letter dated 26 June 2018 from the President of the Council (S/2018/627) and stated that he had received a corresponding letter from the President of the General Assembly and that he would proceed with the reappointment of 23 judges of the Mechanism, as well as the reappointment of Judge Meron and the appointment of Judge Agius as President of the Mechanism for their respective terms.

16. By a letter dated 2 August 2018 addressed to the Secretary-General (S/2018/756), the President of the Security Council, inter alia, noted that the roster of judges of the Mechanism had less than the full complement of 25 judges provided for under article 8, paragraph 1, of its statute; that the members of the Council, having carefully analysed the current situation in the Mechanism, reasonably expected that filling the two vacant positions would assist in the effective and timely implementation of the Mechanism's mandate in accordance with resolution 1966 (2010); and that the members of the Council had decided that two judges should be elected, in accordance with article 10 of the statute of the Mechanism, to the roster of judges of the Mechanism. The President requested the Secretary-General to invite States to submit nominations within a period of 60 days.

17. By a letter dated 25 October 2018 addressed to the President of the Security Council (S/2018/963), the Secretary-General forwarded to the Council the eight nominations that had been received within the designated period for submission. On 1 November 2018, the Legal Counsel wrote to the President of the Council informing him of one nomination that had been received after the deadline. On 13 November 2018, the Assistant Secretary-General for Legal Affairs wrote to the President of the Council informing him of two additional nominations that had been received after the deadline.

18. By a letter dated 16 November 2018 addressed to the President of the General Assembly (A/73/578), the President of the Security Council forwarded a list of 11 nominations to the Assembly.

VII. Conclusion

19. In 2018, Peru was honoured to assume the chairmanship of the Informal Working Group on International Tribunals, which allowed it to reaffirm its commitment to multilateralism and international law, as well as to the work of the International Residual Mechanism for Criminal Tribunals, which inherited a number of essential functions from the recently closed International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda.

20. Aside from the meetings referred to in the present report, the Working Group also held informal meetings in March, April, May, June, July and November 2018 to consider different issues.

21. The Chair recognizes the important role of the Working Group and thanks each of its members for their commitment and constructive participation throughout 2018 and for their efforts in supporting and reviewing the work of the Mechanism.

22. The Chair would like this constructive approach to continue in 2019 in order to proceed with the consideration of any additional issue that may arise.

23. The Chair emphasizes his commitment to supporting the work of the Mechanism and giving priority to the dialogue with the Mechanism, as well as with States concerned and the Secretariat, for the most expeditious completion of the Mechanism's mandate.

24. To conclude, the Chair extends his appreciation to the Office of Legal Affairs and the Security Council Affairs Division for their invaluable support during 2018. The Chair would also like to thank the President, Theodor Meron, and the Prosecutor for their commitment to working closely together in furtherance of the mandates established by the Council. The Chair values the excellent relationship built with all of them during 2018.